

REMARKS

Claims 67-80, 82-85, and 87-94 were pending in the application. By this Amendment, claims 67, 79, 80, 85, 87, 92, and 93 have been amended. Reexamination and reconsideration of the claims as amended are respectfully requested.

Without acceding to any of the grounds for rejection set forth in the Office Action, Applicants respond as follows.

I. Traversals of Claim Rejections

All of the previously pending claims were rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent Application Publication No. 2003/0045778 to Ohline et al. The Ohline publication describes a steerable, tendon-driven endoscope. As shown in Fig. 2, the endoscope 20 has an elongate body 21 that includes a steerable distal portion 24, an automatically controlled portion 28, and a flexible and passively manipulated proximal portion 22. (Paragraph 0047). The body 21 of the endoscope is described as being "highly flexible so that it is able to bend around small diameter curves without buckling or kinking." (Paragraph 0049). Nowhere does the Ohline publication describe that any portion of the body is selectively switched from its highly flexible state to a substantially rigid or shape-locked condition.

As an initial matter, Applicants respectfully submit that the Office Action includes several mischaracterizations of the teachings contained in the Ohline publication. As a result, several of the claim rejections contained in the pending Office Action are believed to be baseless. Favorable reconsideration and withdrawal of these grounds for rejection of the claims is respectfully requested.

For example, the Office Action contends (or implies) that the Ohline publication teaches an endoluminal apparatus having first and second sections that includes the following features:

- That "the first section may be selectively switched between a substantially flexible condition and a substantially rigid condition," as recited in independent claim 67 (Office Action, page 2);

- That the first section and the second section are “transformable between a substantially flexible condition and a shape-locked condition, independently of each other,” as recited in independent claim 85 (Office Action, page 2);
- That the first section includes “a locking mechanism . . . for holding the first section in a selected shape,” as recited in independent claim 87 (Office Action, page 2); and
- That the apparatus includes “shape locking means formed in the first section for holding the first section in a desired shape,” as recited in independent claim 93 (Office Action, page 2).

These contentions are respectfully traversed. Specifically, it is noted that paragraphs 0010-0014 of Ohline, cited by the Office Action in support of the contention that Ohline teaches the features of a “first section . . . selectively switched between a substantially flexible condition and a substantially rigid condition,” as well as the Figures associated with that text, are silent as to the subject feature. Still further, Applicant has carefully reviewed the remainder of the Ohline publication, and finds no teaching of this feature. Thus, for at least these reasons, Ohline cannot anticipate independent claims 67, 85, 87, and 93.

As another example, in rejecting claim 70, the Office Action contends that paragraphs 0014-0015 and Figs 8a-c and 12a-f of the Ohline publication teach the feature that the second section may be switched between a flexible state and a substantially rigid state “independently of the first section.” (Office Action, page 3). This contention is also respectfully traversed. The cited portions of the Ohline publication are silent as to this feature, as is the remainder of the Ohline publication.

Still further, in rejecting claim 75, the Office Action contends that paragraphs 0070-0076 and Figs 6a-e of the Ohline publication teach the feature that “compression of the plurality of adjacent links by a tensioning element places the first section, or the second section, or both sections into the substantially rigid condition.” (Office Action, page 3). This contention is also respectfully traversed. The cited portions of the Ohline publication are silent as to this feature, as is the remainder of the Ohline publication.

Still further, in rejecting claims 77 and 79, the Office Action implies that paragraphs 0072-0075 and Figs 6a-e of the Ohline publication teach the features that the apparatus includes at least two liners extending along a length of the main body and that “at least one liner can transmit torque” (claim 77), and that the cited portions teach the feature that the

apparatus includes a liner that "has a hydrophilic coating" (claim 79). (Office Action, page 3). These contentions are also respectfully traversed. The cited portions of the Ohline publication are silent as to these features, as is the remainder of the Ohline publication.

As another example, in rejecting claims 80 and 83, the Office Action states or implies that paragraphs 0008-0009 and Fig. 2 of the Ohline publication teach the feature that the apparatus includes "an endoscope extendable through the main body, with the endoscope having a steerable tip" (claim 80), and that the cited portions teach that "a first end of the endoscope is positionable in an off-axis position relative to the elongated main body such that a region of interest spaced apart from the elongated main body may be viewed at an angle via the endoscope" (claim 83). (Office Action, page 4). These contentions are also respectfully traversed. The cited portions of the Ohline publication are silent as to these features, as is the remainder of the Ohline publication.

As still another example, in rejecting claim 84, the Office Action contends that Fig. 2 of the Ohline publication teaches the feature that the apparatus includes "a Y-port located along the first section, wherein the Y-port is in communication with at least one lumen extending through the elongated main body." (Office Action, page 4). This contention is also respectfully traversed. The cited portion of the Ohline publication is silent as to this feature, as is the remainder of the Ohline publication.

Accordingly, favorable reconsideration and withdrawal of these claim rejections under 35 U.S.C. §102(e) are respectfully requested.

In the event that the Office maintains the rejections of these claims, Applicants respectfully request that the Office, in the interests of compact prosecution, identify on the record and with specificity sufficient to support a prima facie case of anticipation, where in the Ohline publication the subject features of the above claims are alleged to be taught.

II. Claim Amendments

As noted above, Applicants expressly do not assent to any of the Examiner's stated grounds for rejecting the previously presented claims. Nevertheless, with the objective of expediting prosecution and obtaining early allowance of the claims, Applicants have amended the claims as follows.

Independent claim 67 has been amended to recite that the endoluminal apparatus includes "a scope extended through at least a portion of said at least one lumen, said scope being moveable through said lumen relative to said elongated main body." All of the other independent claims – 85, 97, 92, and 93 – have been amended to recite a similar feature. This amendment comprises, in part, the incorporation of some of the subject matter contained in former dependent claim 80, which claim has been amended correspondingly. As described at, e.g., paragraphs 0064 and 0089, the rigidizable feature allows the apparatus to create a rigid platform, from which an endoscope or other tools may operate. The Ohline device, on the other hand, is itself an endoscope. Accordingly, in Ohline, there are no elements, such as the recited main body, to provide a rigid platform, e.g. for an endoscope. Rather, in the Ohline publication, all of the elements are endoscope elements, and there are no elements to provide a platform.

Accordingly, because the Ohline publication does not disclose, teach, or suggest a feature recited in each of the independent claims, those claims are not anticipated. The dependent claims are not anticipated for the same reason. Applicants request withdrawal of the rejections of those claims, and issuance of a notice of allowance.

Amendment and/or cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. Similarly, unless explicitly stated, nothing contained or not contained in this paper should be construed as an assent to any of the Examiner's stated grounds for rejecting the claims, including specifically the Examiner's characterization of the teachings of the cited art. Rather, the present amendments to the claims and Remarks are an attempt to expedite allowance and issuance of the currently pending claims.

No new matter has been added.

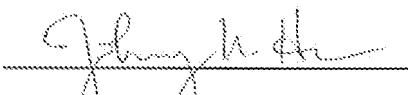
CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections and pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the appropriate fee and/or petition is not filed herewith and the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with this filing to Deposit Account No. 50-3973 referencing Attorney Docket No.

USGINZ00130. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,



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